

## CHAPTER 10.

## *Annexation Procedures*

---

### CONTENTS

#### *10. Annexation Procedures*

A.	Why Annex?.....	10-1
B.	The Evaluation of Annexation Proposals.....	10-2
1.	The Statement of Annexation Goals and Policies .....	10-2
2.	Guidelines for Evaluating Proposed Annexations .....	10-2
3.	The Annexation Study .....	10-3
4.	The Plan of Service.....	10-3
C.	Consequences of Annexation.....	10-3
1.	Special Districts .....	10-4
2.	Franchises .....	10-4
3.	Revenue .....	10-4
a.	The Property Tax.....	10-5
b.	State Collected, Locally Shared Revenue .....	10-5
c.	The Local Sales/Use Tax.....	10-6
d.	Local Business Charges .....	10-6
e.	Miscellaneous Revenues .....	10-6
4.	Cost to the Annexing City .....	10-6
5.	Liability.....	10-7
D.	Preliminary Matters.....	10-7
1.	Environmental Disclosure Requirements .....	10-7
2.	Comprehensive Planning/Zoning .....	10-7
3.	Assumption of Indebtedness.....	10-8

4.	Community Municipal Corporations .....	10-9
5.	The Annexation Information Program .....	10-9
E.	Methods of Annexation in First, Second, Third, and Fourth Class Municipalities .....	10-10
1.	Election Method, Initiated by 20 Percent Petition .....	10-10
a.	Initiation .....	10-10
b.	Review by Prosecuting Attorney .....	10-10
c.	Approval of City or Town.....	10-11
d.	Petition Filed with County Governing Body and Review Board .....	10-11
e.	County Governing Body—Hearing on Petition.....	10-11
f.	Election on Annexation.....	10-12
2.	Election Method, Initiated by Resolution .....	10-12
3.	75 Percent Petition Annexation Method .....	10-13
a.	Initiation of the 75 Percent Petition Annexation .....	10-13
b.	Review by Boundary Review Board.....	10-14
c.	Effective Date .....	10-15
4.	Annexation for Municipal Purposes .....	10-15
5.	Annexation of Federally Owned Areas.....	10-15
a.	First Class Cities .....	10-15
b.	Second and Third Class Cities, Towns .....	10-15
6.	Boundary Line Adjustments .....	10-16
7.	Urban Growth Area Boundaries .....	10-16
F.	Methods of Annexation in Code Cities .....	10-16
1.	Election Method, Initiated by 10 Percent Petition .....	10-16
2.	Election Method, Initiated by Resolution .....	10-18

3.	The 60 Percent Petition Annexation Method.....	10-18
4.	Annexation for Municipal Purposes .....	10-19
5.	Annexation of Federally Owned Areas.....	10-19
6.	Annexation of Unincorporated Islands .....	10-20
7.	Boundary Line Adjustments .....	10-20
G.	Review Boards .....	10-21
Table A	.....	10-22
Endnotes for Chapter 10	.....	10-23

**A. Why Annex?**

Proper annexation of areas adjacent to cities and towns is often crucial to establishing and maintaining urban order and effective government. Rapid development and population growth frequently occur just outside city boundaries where property is cheaper, zoning laws less restrictive or nonexistent, and subdivision requirements less demanding. Small and large cities alike are surrounded by 'tinge' areas. With the development of fringe communities come the problems that concentrations of people create—the failure of septic systems, increased traffic congestion on inadequate roads, the need for improved police and fire protection, and inadequate planning of land use that results in disorderly growth.

These problems, unfortunately, cross boundary lines and become a city's problem, too. The growth of separate fringe areas may produce a complex pattern of government by multiple jurisdictions—city, county, and many special districts, which can lead to administrative chaos, inefficiency, duplication, and excessive costs.

At the same time, economic and social ties between cities and their fringe areas can be strong. Outlying areas benefit in many ways from city parks and recreational facilities, streets, utilities, and other facilities and programs, often without contributing a proportionate share of the cost to the city. Moreover, suburban people may request services equivalent to those provided within the city and may recognize that their taxes and other costs (including utility costs and fire insurance premiums) in an unincorporated area are not necessarily lower and are often equal to, or greater than, those within the city.

A logical solution may be annexation. Properly used, annexation preserves a growing urban area as a unified whole. It enables urbanized and urbanizing areas to unite with the core city to which the fringe is socially and economically related. It facilitates the full utilization of distinct, municipal resources. City administrative and technical personnel are able to address the fringe area's municipal needs, and do this in a manner consistent with policies of the annexing city. Annexation is often preferable to the incorporation of new cities, since new incorporation in urban areas may cause conflicts of authority, the absence of cooperation,

duplication of facilities, and an imbalance between taxable resources and municipal needs.

Annexation, therefore, may be appropriate when a city is surrounded by a growing area, when the need for orderly planning and governmental services in fringe areas increases, and when needed services can best be supplied by the city. In general, annexation is a solution in instances when a city is able to address emerging fringe area concerns.

Annexation has become more commonplace since the adoption of the Growth Management Act and the requirement for the designation of Urban Growth Boundaries.

---

## **B. The Evaluation of Annexation Proposals**

It may be useful for a city or town to undertake various planning efforts prior to embarking upon a general program of annexation and certainly before its officials are asked to consider a specific annexation proposal. Advance planning helps place a focus on the abilities of a city or town to expand its borders and on the demands and benefits associated with a particular proposal. Advance planning also allows the public a better understanding as to what must be proved to annex territory and on how officials are likely to react to an annexation request.

### **1. The Statement of Annexation Goals and Policies**

It is desirable for cities to prepare written guidelines as to their logical direction of future growth, and how actual annexation proposals will be evaluated. Annexation policies should be considered by a city apart from specific annexation requests. They should be developed after a city has considered its goals for growth in light of its ability to provide municipal services to additional areas of land. A statement of annexation goals and policies should seek to delineate what the city considers to be its "sphere of influence," and under what conditions it will be interested in pursuing particular annexation proposals.

### **2. Guidelines for Evaluating Proposed Annexations**

Whether or not a city has formally adopted (or reviewed and updated) a statement of annexation goals and policies, it is important to establish criteria for evaluating specific annexation proposals. City policymakers should be consistent in dealing with

annexation interests, and apply uniform standards when making decisions regarding annexation.

### **3. The Annexation Study**

After the general guidelines for a municipality's annexation policy have been established, a city will be in a better position to evaluate individual annexation requests. When residents of a fringe area indicate an interest in annexing to a city, or the city itself considers the area part of its natural growth pattern and desires to guide its development, a careful and thorough study of the area should be made, including the development of statistical data, maps, and information on the area's existing public services, urban services needs, service requirement costs, estimate of revenues, social and economic characteristics, and other special problems.

### **4. The Plan of Service**

An Annexation Study should serve as a basis for preparing a Plan of Service. Such a plan should identify those municipal services proposed to be extended, and establish a time schedule for the extensions. People in an annexed area are to be treated in all respects like other residents of the city as soon as is reasonably possible.

The first step in the development of the plan is to consider the cost of extending all services being provided in the city. If the full package of services exceeds the city's financial capability, relative priorities should be established and each service should be extended when it is financially possible. The Plan of Service should advise people in the annexation area, who must approve the annexation, when they can expect to receive the new or improved services they desire and point out when the city will require direct payments from property owners to receive the services desired. Another matter which should be clearly stated in the Plan of Service is whether, or the extent to which, the city will subsidize the introduction of a new service or the improvement of an existing one in the annexed area.

---

## **C. Consequences of Annexation<sup>1</sup>**

An annexation, if approved, may have a substantial impact on the annexing city or town, the county from which territory is 'removed,' and on other governmental agencies serving the area in question. Consideration of the various impacts can be very useful.

## **1. Special Districts**

Anticipating the consequences of annexations on special districts requires careful analysis on a district by district basis, since there are few general rules which apply to all districts. Some districts are not affected by annexations, others continue exercising jurisdiction only over areas not annexed, and still others may go out of existence altogether when all or parts of their territory are absorbed by municipalities.

Early in an annexation it is helpful for city officials to meet with administrators of any potentially affected district to resolve as many issues as possible and to reach an understanding, consistent with law, as to how the transfer of jurisdiction, if required, will occur. Remaining issues may be appropriate to bring before a boundary review board, if review is required.

## **2. Franchises**

As of the effective date of an annexation, a franchise or permit within the annexed territory authorizing or permitting the operation of any public transportation, garbage collection and/or disposal, or other similar public service, business, or facility is canceled. However, the holder of a canceled franchise or permit is to be granted another franchise by the annexing city to continue the business within the annexed territory for at least five years from the date of issuance.<sup>2</sup> The annexing city is not to extend or permit the extension of similar or competing services to the annexed territory unless it makes a proper showing that the preexisting franchise or permit holder is unable or has refused to adequately service the annexed territory at a reasonable price.<sup>3</sup>

The law on franchises in annexed areas is not intended to preclude the purchase of a franchise, business, or facility at an agreed price, or to prohibit the condemnation of the franchise, business, or facility if damages (including an amount for the loss of the franchise or permit) are paid. However, the law provides that if any person, firm, or corporation whose franchise or permit is canceled suffers any measurable damages as a result of an annexation, that person or company has a right of action against the city that caused the damages.<sup>4</sup>

## **3. Revenue**

Annexations may impact the financial health of cities and towns. Whether this impact is favorable or detrimental to a particular municipality depends largely on whether the short-term and long-term revenues accruing as a result of an annexation exceed the

additional costs of providing the necessary facilities and services to the annexed area.

The primary revenue sources of most cities and towns in Washington state may be categorized into five broad classifications:

### **a. The Property Tax**

On the average, throughout the state, property taxes are roughly comparable in cities and counties. Total property taxes collected vary somewhat with the number and types of special districts in each area, and with the excess levies approved by the voters of the various jurisdictions.

Pending the levy and collection of an annexing municipality's own property tax, the dollar amount of property taxes which a city or town will receive after annexation varies with the circumstances of each annexation. Since tax boundaries are established as of March 1, when an annexation becomes effective will determine when property taxes are paid to the annexing city or town. Although there is always a delay, annexations effective after March 1 will result in an additional one year delay before property tax monies are first received.

### **b. State Collected, Locally Shared Revenue**

With respect to the state collected, locally shared revenues, RCW 35.13.260 (first, second, third, and fourth class municipalities) and RCW 35A.14.700 (code cities) provide that each annexing city must submit a form to the state's Office of Financial Management (OFM) within 30 days of the effective date of an annexation. OFM attempts to approve annexation certificates in the same quarter in which they are received, if the annexing city has properly forwarded the required information to it.

If the certificate is forwarded more than 30 days before the commencement of the next quarterly period, the revised population is to be used in the allocation and payment of the state funds beginning with the next quarter. Quarterly periods begin on January 1, April 1, July 1, and October 1 of each year. If the revised certificate is forwarded 30 days or less before the start of the next quarter, the increased population is not considered until the beginning of the following quarter.

The gasoline taxes are distributed monthly; and the liquor board profits, liquor tax, and the automobile excise tax are distributed quarterly, all on the basis of population. Thus, there will be a lag



of about one to five months from the effective date of an annexation until each state office making distributions is able to use the increased population statistics in its revenue distribution.

### **c. The Local Sales/Use Tax**

The sales and use tax which comes to cities and towns is locally imposed. However, for ease of administration, the local tax is collected by the state department of revenue along with the state sales tax, and returned to the municipalities on a bimonthly basis.<sup>5</sup> There is normally a slight delay in the distribution of this tax to the cities. For example, a December distribution represents September-October sales and use tax accruals.

### **d. Local Business Charges**

Whether increased revenue may be forecast from the imposition of local business taxes in an annexed area depends, of course, on whether there are businesses located in the area, and on the nature of the local taxes and charges, if any. This is a matter of local concern, as practices vary substantially among the cities.

### **e. Miscellaneous Revenues**

Likewise, whether appreciable revenue may be expected from any of the possible miscellaneous revenue sources depends upon the character of the area annexed and of the local taxes imposed. Annexations of property to which a local leasehold excise tax is applicable, or of a theater or a gambling center, may increase revenues; whereas annexations of sparsely developed or residential properties may not yield noticeable income to the city from the miscellaneous sources.

## **4. Cost to the Annexing City**

Analyzing annexation costs to a municipality is, at best, difficult. There are no magic formulas to arrive at an accurate prediction for all annexations of what the cost to the municipality will be—either in the short term or the long term. Each annexation has unique characteristics. Short term costs vary with the immediate need for services, such as the anticipated cost of police, fire, planning, utility, and street maintenance. Long term costs may include the capital improvement obligations a city may assume after an annexation. The current status of land development has substantial bearing on the cost element, together with size, character of the population, and unique municipal concerns, if any, of the area to be annexed.

## **5. Liability**

Annexation results in the transfer of liability for unsafe conditions in roads. "Where a municipality annexes a roadway from another municipality, the annexed municipality's potential liability for any unsafe conditions in the roadway ends after the annexing municipality has been afforded a reasonable opportunity to discover and remedy the unsafe condition."<sup>6</sup>

---

## **D. Preliminary Matters**

Prior to proceeding with a proposed annexation, a city or town must consider the application of the State Environmental Policy Act to the proposed annexation and may wish to consider the area's zoning, whether some of the city's or town's present indebtedness should be assumed, whether provision should be made for the creation of a community municipal corporation, and what or how information should be supplied to persons living in the proposed annexation area.

### **1. Environmental Disclosure Requirements**

The State Environmental Policy Act, (SEPA), Ch. 43.21C RCW, requires environmental factors to be considered before "major actions significantly affecting the quality of the environment" are undertaken. The State of Washington Council on Environmental Policy developed the SEPA Rules, Ch. 197-11 of the Washington Administrative Code, to help define what a "major action" is, and to establish procedures for impact statement preparation. Annexations are included in the definition of "nonproject actions" in these rules.<sup>7</sup>

Some annexations will require preparation of a complete environmental impact statement, but others will not be major actions significantly affecting the environment, and a negative declaration will suffice.

### **2. Comprehensive Planning/Zoning**

Cities and towns are authorized under RCW 35.13.177 and 35.13.178 (RCW 35A.14.330 and 35A.14.340 for code cities) to prepare a comprehensive land use plan or zoning regulation for areas which might reasonably be expected to be annexed to the city or town at any future time. Preparation of the comprehensive plan or regulation is essential in a city or town which will want to adopt meaningful zoning measures for its new territory simultaneously with annexation. If appropriate zoning provisions

are not adopted at the time of annexation, it is possible that uses of land may become established in a newly annexed territory which are incompatible with neighboring uses and with sound land use management.

Questions frequently arise as to how the zoning procedures may be coordinated with the annexation laws. While each situation must be individually analyzed, there is a time, fairly soon after an annexation is initiated, when the annexation procedures are too far advanced to allow for a "time-out" during which a comprehensive plan/zoning regulation for the area proposed for annexation can be prepared.

Many cities avoid this timing problem by preplanning and prezoning for all area surrounding their boundaries that are logical growth directions of the city. The statutes on preplanning and prezoning permit the utilization of the procedures outlined above for "any area which might reasonably be expected to be annexed by the city or town at any future time."<sup>8</sup> There is no requirement that an annexation proposal be imminent before consideration is given to planning and zoning. The most satisfactory use of the prezoning authority permits completing orderly planning and zoning before specific annexation proposals are presented.

Cities and towns now take several approaches to zoning newly annexed areas that have not been preplanned and prezoned. Some cities and towns provide, by ordinance, that all newly annexed territory that is not otherwise zoned shall be automatically zoned into the city's least dense residential zone, or into a general "holding" zone. This approach avoids having property within the city or town which has no zoning designation.

Another approach is to provide, by ordinance, that the zoning regulations of the county shall remain applicable pending further review and rezoning in due course by the city or town. A third approach would be to automatically zone newly annexed territory into the city or town zone which is most similar to the prior county zone.

Pending statutory or judicial guidance, any of the foregoing temporary methods may be more desirable than the complete absence of a zoning provision when territory is annexed to a city or town.

### **3. Assumption of Indebtedness**

Statutes authorizing annexation through the election method, initiated either by petition resolution, the 75 percent petition method, and the method of annexing unincorporated islands

(applicable to code cities), all authorize the legislative body of the annexing city or town to require property in an area being annexed to assume, as a condition of annexation, a pro rata share of the annexing city's then outstanding indebtedness which had been approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation.<sup>9</sup>

In each city there will be different factors which should be considered in deciding whether to require debt assumption. Most cities do require the assumption of indebtedness as a condition of annexation unless in a particular circumstance this would not be equitable. This issue may be included in a city's statement of annexation goals and policies, so that the city is consistent in its requirements, and all potential areas are aware of them.

#### **4. Community Municipal Corporations**

State statutes authorize the formation of community municipal corporations in annexations in which the unincorporated territory being annexed:

- *Would have been eligible for incorporation as a city or town, or*
- *Has at least 300 population, and is at least 10 percent of the population of the annexing city, or*
- *Has a minimum population of 1000 inhabitants.*<sup>10</sup>

The general purpose of community municipal corporations is to provide a formal mechanism to communities which are uniting with larger governments whereby their community identity can be maintained, advice can be forwarded to the legislative authority, and localized decisions on planning, zoning, and subdivision matters can be made. They have been formed in several areas within the state, such as in the cities of Bellevue and Kirkland.

#### **5. The Annexation Information Program**

The success of an annexation program is often directly dependent on public attitudes. Accordingly, it is important that members of the public are fully informed on the issues and elements involved in order that the final decision truly reflects the general will. An annexation information program will help to form correct public attitudes, and to dispel false rumors, misunderstandings, and incorrect information so that annexations can be more readily judged on their own merits.

A carefully planned public relations program is essential in communicating annexation facts to the public. However, when an election is involved, caution must be exercised not to use public facilities for promoting the ballot proposition, contrary to law.<sup>11</sup> One way to provide needed information is through the development of a fact sheet.

A fact sheet or pamphlet will typically describe various aspects of the proposed annexation. It should include at least a map of the area, a list of the benefits and improvements that will result from annexation, and a clear statement of the financial implications of the proposal.

Community organizations, such as improvement clubs, service clubs, garden clubs and social clubs may also be valuable in informing residents of annexation issues. Such organizations often promote community spirit and provide arenas for involvement in local issues and affairs. The support or opposition of such organizations can be very important to a city's annexation program.

---

## **E. Methods of Annexation in First, Second, Third, and Fourth Class Municipalities**

There are five main methods by which areas can be annexed to first, second, third, and fourth class municipalities; in addition, since 1989, there is a means by which city and town boundaries can be adjusted.

### **1. Election Method, Initiated by 20 Percent Petition**

#### **a. Initiation**

The annexation of contiguous, unincorporated territory may be initiated by a petition signed by 20 percent of the number of voters living in the area to be annexed who voted in the last election.<sup>12</sup>

#### **b. Review by Prosecuting Attorney**

The petition is first submitted to the county prosecuting attorney for review. The prosecuting attorney has 21 days after submission to certify or refuse to certify the petition as required by RCW 35.13.025.<sup>13</sup>

### **c. Approval of City or Town**

#### **(1) Prior Approval Required**

Once the petition has been certified by the prosecuting attorney, it is to be filed with the legislative body of the city or town to which annexation is proposed.<sup>14</sup> That body, within 60 days of the date it was filed, must either approve or reject the proposed annexation by resolution and notify the petitioners of its action, either by mail or by publishing notice once each week for at least two weeks in a newspaper of general circulation in the area proposed to be annexed. The approval of the legislative body is required for any annexation.

#### **(2) Additional Conditions to Annexation**

The legislative body of a city or town to which annexation is proposed, in approving the proposed annexation, may also require assumption of indebtedness and the filing a comprehensive plan for the area.<sup>15</sup>

### **d. Petition Filed with County Governing Body and Review Board**

After approval by the legislative body of the city or town, the petition is to be filed in the office of the county governing body. Notice of the proposed annexation must also be given to the county boundary review board, if one has been established in the county.<sup>16</sup> Otherwise, the ad hoc annexation review board is to be convened by the mayor within 30 days after the filing of the petition with the county.<sup>17</sup>

### **e. County Governing Body—Hearing on Petition**

The county governing body is to conduct the hearing on the annexation petition. If the petition complies with legal requirements and has been approved by the review board, the petition for an annexation election is to be granted. The county governing body may continue the hearing from time to time for an aggregate period not exceeding two weeks.<sup>18</sup>

#### **f. Election on Annexation<sup>19</sup>**

If the petition is granted and is certified as sufficient, RCW 35.13.060 requires the city or town legislative body indicate its preference for an election date on the annexation to the county auditor. The date must be one of the special election dates provided for by RCW 29.13.020 and is to be held 60 or more days after the date the preference is indicated. The county auditor shall call the special election on the date indicated by the city or town.

Notice of the election must be posted for at least two weeks prior to the date of election in four public places within the area proposed to be annexed, and published in accordance with the notice required in RCW 29.27.080.

If either of the propositions (annexation, assumption of debt) are approved by the electors, the county governing body is required to:

- *Enter on its minutes a finding to that effect, and*
- *Transmit and file a certified copy of its minutes with the clerk of the city or town to which annexation is proposed, and*
- *Transmit a certified abstract of the vote.<sup>20</sup>*

The city or town clerk is to transmit the certified copy of the finding of the county governing body to the legislative body of the city or town at the next regular meeting or as soon thereafter as practicable.

The legislative body is to adopt ordinances providing for annexation and adoption of the comprehensive plan, and/or the creation of a community municipal corporation, as is appropriate. If a proposition calling for the assumption of all or any portion of the outstanding indebtedness of the city or town was submitted and approved, this provision is to be included in the annexing ordinance. If this proposition did not receive the necessary vote, then the legislative body must decide whether to enact an annexation ordinance, or to decline to annex the territory.<sup>21</sup>

The area annexed becomes a part of a city or town upon the date fixed in the ordinance of annexation.<sup>22</sup>

## **2. Election Method, Initiated by Resolution**

The annexation of contiguous, unincorporated territory may also be initiated by resolution of the legislative body of the city or town which desires to annex the territory. With the exception of the first

several steps to annexation, the procedure is that for the election method of annexation initiated by the 20 percent petition.

The legislative body may initiate an election on an annexation proposal by enacting a resolution meeting the requirements of RCW 35.13.015. A formal public hearing by the city council is optional.

A certified copy of the resolution is to be filed with the county governing body of the county in which the territory is located. Notice of the proposed annexation must also be given to the county boundary review board, if one has been established in the county.<sup>23</sup> Otherwise, ad hoc annexation review board is to be convened by the mayor.<sup>24</sup>

### **3. 75 Percent Petition Method**

The most frequently used method of annexing territory is by petition of the owners of at least 75 percent of the property value in an area, computed according to the assessed valuation of the property in the proposed annexation area for general taxation purposes.

#### **a. Initiation of the 75 Percent Petition Annexation**

The annexation may be initiated by either:

- *Signatures of not less than 10 percent of the residents of the area proposed to be annexed, or*
- *Signatures of the owners of not less than 10 percent of the value of the property for which annexation is petitioned, according to the assessed valuation for general taxation purposes, or*
- *The board of directors of a school district.*<sup>25</sup>

After the annexation has begun but before circulating an annexation petition under the 75 percent petition method, the initiating party or parties must give notice of their intention to commence annexation proceedings to the legislative body of the city or town to which they propose to annex.<sup>26</sup>

The legislative body is to set a date (within 60 days after the filing of the request) for a meeting with the initiating parties to determine:



- *Whether the city or town will accept, reject, or geographically modify the proposed annexation,*
- *Whether it will require the simultaneous adoption of the comprehensive plan, if such a plan has been prepared and filed as provided for in RCW 35.13.177 and 35.13.178, and*
- *Whether it will require the assumption of all or any portion of the existing city or town indebtedness by the area to be annexed.*<sup>27</sup>

If the legislative body requires any of the foregoing provisions to be included as conditions to annexation, it is to record this action in its minutes. There is no appeal from the decision of the legislative body.

If the legislative body approves the initial annexation proposal, the petition may be drafted and circulated.<sup>28</sup>

When a legally sufficient petition is filed with a city or town legislative body, that body may entertain it, fix a date for a public hearing, and provide notice of the hearing.<sup>29</sup>

Following the hearing, the legislative body must enact an ordinance annexing or declining to annex the property. It may annex all or any portion of the area proposed for annexation, but may not include any property not described in the annexation petition.<sup>30</sup>

## **b. Review by Boundary Review Board**

If a boundary review board has been established within the county, a notice of intent to annex must be filed with it.<sup>31</sup>

The board may assume jurisdiction over the annexation if, within 45 days of filing the notice of intent, a request for review is made by a sufficient number of board members of a governmental unit affected by the proposal, or by petition of registered voters or property owners. If jurisdiction is not invoked within 45 days, the proposed annexation is deemed approved. The board must act within 120 days of the review request, unless the parties agree to an extension. If no finding is made within 120 days and no extension is granted, the proposal is deemed approved.<sup>32</sup>

Whether review is required by an ad hoc annexation review board in counties which do not have a boundary review board is uncertain. If the proposal is filed with the ad hoc board, its

decision of the ad hoc annexation review board would be only advisory to the city legislative body.

### **c. Effective Date**

The annexation, together with any provisions for the assumption of indebtedness or adoption of comprehensive plan, is to take effect on the date set in the ordinance.<sup>33</sup>

## **4. Annexation for Municipal Purposes**

Second and third class cities and towns<sup>34</sup> are authorized to annex territory outside the city or town limits for municipal purposes, regardless of whether the territory is contiguous or noncontiguous to the annexing city or town. Either the area must be owned by the city or town or all of the owners of the real property in the area must give their written consent to the annexation. The annexation requires enactment of an ordinance by majority vote of the city or town council.

Annexations of areas owned by a city or town for municipal purposes are exempt from boundary review board review.<sup>35</sup> Review by the ad hoc annexation review board likewise is not necessary in counties without a Boundary Review Board.

## **5. Annexation of Federally Owned Areas**

### **a. First Class Cities**

A first class city may annex any contiguous unincorporated area by ordinance accepting a gift, grant, lease or cession of jurisdiction from the federal government of the right to occupy or control it.<sup>36</sup>

### **b. Second and Third Class Cities, Towns**

A second or third class city or town may annex by ordinance any contiguous unincorporated area within four miles of its corporate limits by accepting a gift, grant, or lease from the federal government of the right to occupy, control, improve, or sublet it for commercial, manufacturing, or industrial purposes.<sup>37</sup>

When a boundary review board has been established in the county, notice of intent to annex must be filed with it. Review by the ad hoc annexation review board is not necessary in counties without a Boundary Review Board.

## **6. Boundary Line Adjustments**

Legislation was enacted in 1989<sup>38</sup> to establish a process for the adjustment of existing or proposed city boundary lines to avoid a situation where a common boundary line is or would be located within a right-of-way of a public street, road, or highway. The process also applies to the situation where two cities are separated or would be separated by only the right-of-way of a public street, road, or highway, other than where a boundary line runs from one edge to the other edge of the right-of-way.<sup>39</sup> The process is available to all cities and towns, including code cities.<sup>40</sup> A process was also established to provide for boundary adjustments where a parcel of land is located partially within and partially without the city boundaries.<sup>41</sup>

## **7. Urban Growth Area Boundaries**

Cities and Counties required to plan under the Growth Management Act are required to designate Urban Growth Area Boundaries ("UGA").<sup>42</sup> An UGA may extend beyond cities' boundaries and shall include areas sufficient to permit the urban growth that is projected to occur within that city for the succeeding 20-year period. No city may annex territory beyond an Urban Growth Area.<sup>43</sup>

---

## **F. Methods of Annexation in Code Cities**

Six methods of annexation are available to code cities.<sup>44</sup> Procedures for each annexation method are reviewed below:

### **1. Election Method, Initiated by 10 Ten Percent Petition**

The annexation of contiguous, unincorporated territory may be initiated by a petition which is signed by voters equal to 10 percent of the votes cast at the last state general election living in the area to be annexed.<sup>45</sup>

The petition is to be filed with the county auditor, with a copy filed with the city's legislative body. The county auditor certifies the sufficiency of the petition to the legislative body of the code city. If there are sufficient valid signatures, the legislative body must, within 60 days, notify the petitioners of its approval or rejection, either by mail or by published notice. The approval of the legislative body is a condition precedent to further proceedings on the petition. A formal public hearing is optional.<sup>46</sup>

The legislative body may require, as part of the annexation approval, that the area seeking annexation be subject to then-outstanding indebtedness and/or zoning regulation.

After approval by the legislative body of the city to which annexation is proposed, the petition is to be filed with the legislative authority of the county in which the territory is located, together with a statement of the provisions on assumption of debt and/or the simultaneous adoption of a proposed zoning regulation. A copy of the petition and statement, if any, is also to be filed with the boundary review board, if one has been established, or otherwise with the county annexation review board for code cities, unless the annexation is exempt from review. An annexation of less than fifty acres or less than \$2 million in assessed valuation is not subject to review, except in counties in which the boundary review board has been established.<sup>47</sup>

If the review board disapproves the proposal, no further action may be taken on the proposal and no other proposal for annexation of the same or substantially the same territory (as determined by the board) may be initiated or considered for twelve months.

Upon approval of the proposal by the review board (with or without modifications), the city legislative body is to indicate to the county auditor its preference for a special election date for submission of the proposal (with any modifications made by the review board) to the voters of the territory proposed to be annexed. The county legislative authority must set the election date on the date indicated by the city.

The annexation question is to be submitted at a special election on one of the dates provided under RCW 29.13.020 that is 60 or more days after the preference is indicated.<sup>48</sup> The statute provides that only registered voters who have resided in the area proposed to be annexed for at least 90 days before the election, shall be allowed to vote; this statutory requirement may be unconstitutional.<sup>49</sup> On the Monday after the annexation election, the county canvassing board must canvass the returns and submit a statement of canvass to the county legislative authority.<sup>50</sup> If any of the propositions are approved by the electors, the county legislative authority is required to enter in its minutes a finding to that effect, transmit and file a certified copy of its minutes to the clerk of the city to which annexation is proposed, and transmit to the city clerk a certified abstract of the vote.

The city clerk is to transmit the certified copy of the finding of the county legislative authority to the city legislative body at its next regular meeting, or as soon thereafter as practicable.

The city legislative body is to adopt ordinances providing for annexation, the proposed zoning regulation, and/or the assumption of all or any portion of indebtedness, as is appropriate. If a proposition calling for the assumption of indebtedness of the city was disapproved, the legislative body may refuse to annex the territory.<sup>51</sup>

A certificate must be submitted in triplicate to the state Office of Financial Management within 30 days of the effective date of annexation.<sup>52</sup>

## **2. Election Method, Initiated by Resolution**

The annexation of contiguous, unincorporated territory may also be initiated by resolution of the legislative body of the code city desiring to annex the territory. After the annexation is properly initiated, the election procedures under this method are identical to those used in the election method initiated by the 10 percent petition. The resolution may also provide for the assumption of indebtedness, the simultaneous adoption of zoning, and for the creation of community municipal corporation.<sup>53</sup>

A certified copy of the resolution is to be filed with the legislative authority of the county in which the proposed annexation is located and with the appropriate review board, if any. The remaining procedures are the same as those applicable to annexation elections initiated by petition.

## **3. The 60 Percent Petition Annexation Method**

The most frequently used method of annexing unincorporated territory is by petition of the owners of at least 60 percent of the property value in the area, computed according to the assessed valuation of the property in the proposed annexation area for general taxation purposes.<sup>54</sup>

Prior to circulating a petition for annexation, the initiating party or parties (the owners of not less than 10 percent in value, according to the assessed valuation for general taxation of the property for which annexation is sought) must give written notice of their intention to commence annexation proceedings to the legislative body of the code city to which they seek annexation.<sup>55</sup>

The city legislative body is to set a date, not later than 60 days after the filing of the request, for a meeting with the initiating parties to determine whether the code city will accept, reject, or geographically modify the proposed annexation; whether it will

require the simultaneous adoption of a proposed zoning regulation; and whether it will require the assumption of all or any portion of existing city indebtedness by the area to be annexed.

Approval by the legislative body is a condition precedent to circulation of the petition. There is no appeal from the decision of the legislative body. If the legislative body approves the initial annexation proposal, the petition may be drafted and circulated.<sup>56</sup> After circulation, the petition is filed with the legislative body of the municipality and should be certified as sufficient.<sup>57</sup>

If the petition is sufficient, the legislative body may entertain it and fix a date for a public hearing, provide notice, and invite interested persons to appear.

Following the hearing, if a legislative body determines to effect the annexation, it shall do so by ordinance. It may annex all or any portion of the area proposed for annexation, but may not include any property not described in the annexation petition.<sup>58</sup>

If a boundary review board has been established within the county, a notice of intent to annex must be filed with it. Most boundary review boards will accept and process the notice of intent on the 10 percent petition or after favorable action has been taken on the completed 60 percent petition. Since statutes are silent on when review is to take place under this annexation method, procedures can vary between counties.

The county annexation review board for code cities does not review annexations under the 60 percent petition method.<sup>59</sup>

Upon the date fixed in the ordinance of annexation, the area annexed becomes a part of the city.<sup>60</sup>

#### **4. Annexation for Municipal Purposes**

Code cities may, by majority vote of the legislative body, annex territory outside of the limits of the city for any municipal purpose if the territory is owned by the city. This may be done regardless of whether the territory is contiguous or noncontiguous.

Review by the boundary review board or by the county annexation review board for code cities is not necessary.<sup>61</sup>

#### **5. Annexation of Federally Owned Areas**

A code city may annex any contiguous, unincorporated area within four miles of its corporate limits by an ordinance accepting a gift,

grant or lease from the U.S. government of the right to occupy, control, improve, or sublet it for commercial, manufacturing, or industrial purposes.<sup>62</sup>

## **6. Annexation of Unincorporated Islands**

When there is an unincorporated territory containing less than 100 acres of which at least 80 percent of the boundaries are contiguous to a code city, a code city may initiate annexation proceedings by resolution.

Residents and property owners of the area described in the resolution are to be afforded notice and an opportunity to be heard.<sup>63</sup> After the hearing, the legislative body may provide by ordinance for the annexation of the territory described in the resolution.<sup>64</sup>

Notice of intent to annex must also be filed with the boundary review board, if one has been established in the county. Review by the county annexation review board for code cities is not necessary in counties without a boundary review board.<sup>65</sup>

The annexation ordinance is subject to referendum for 45 days after passage. The referendum petition must be signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed. If a timely and sufficient referendum petition is filed with the legislative body, the question of annexation is to be submitted to the voters.<sup>66</sup>

If clearance is received from the boundary review board and no timely and sufficient referendum petition is filed after 45 days, the annexation shall be effective upon the date fixed in the ordinance. If a suitable petition is filed and an election held, the annexation shall be deemed approved unless a majority of the votes cast on the proposition oppose it. As of the effective date of the annexation, the area annexed becomes a part of the city, and if the annexation ordinance so provided, the property annexed is subject to the proposed zoning regulation and/or shall be assessed and taxed at the same rate and on the same basis as property within the annexing city.<sup>67</sup>

## **7. Boundary Line Adjustments**

Legislation adopted in 1989 provides a process whereby a code city's boundaries may be adjusted to include (or exclude) area located within a public street, road or highway, or where one parcel is located both within and without the city's limits.<sup>68</sup> The

process applicable to code cities is the same as that applicable to other cities and towns.<sup>69</sup>

---

## **G. Review Boards**

The legislature, according to stated legislative purposes, has created review boards to ease the problems which may arise from the "rapid proliferation of municipalities and haphazard extension of and competition to extend municipal boundaries."<sup>70</sup> The boards are to promote the logical growth of local governments, reduce municipal competition for unincorporated territory, and preserve property values and consistent land use planning. There are three different types of review boards which review annexations. The appropriate review board for a particular annexation depends upon (1) the county in which the annexing city is located, (2) the class of the annexing city, and (3) the method of annexation. See Table A.

All annexations by cities and towns located in counties in which boundary review boards have been established are subject to review by the boundary review board, and not by either of the other two boards. Boundary review boards have been established in nineteen counties.

Annexations by cities in other counties may be subject to review by an ad hoc annexation review board (first, second, third, and fourth class municipalities only) or by the county annexation review board for code cities (code cities only). The ad hoc review board reviews only annexations under the election method, and in some instances the 75% petition method, which are not exempt from review by reason of their small size. The county annexation review board for code cities reviews annexations by code cities under the election method, unless they are exempted.



**Table A**

Method of Annexation	Subject to Review By		
	Boundary Review Board <sup>1</sup>	Ad Hoc Annexation Review Board <sup>2</sup>	County Annexation Review Board for Code Cities <sup>3</sup>
Election method, initiated by petition	Yes <sup>4</sup>	Yes <sup>7</sup>	Yes <sup>6</sup>
Election method, initiated by resolution	Yes <sup>4</sup>	Yes <sup>7</sup>	Yes <sup>6</sup>
Direct petition method (60 or 75 percent)	Yes <sup>5</sup>	Unclear <sup>8</sup>	No
Annexation for municipal purposes	No	No	No
Annexation of federally-owned areas	Yes	No	No
Boundary line adjustments	No	No	No
Annexation of unincorporated islands	Yes	No	No

<sup>1</sup> Boundary review boards currently exist in 19 counties. If a boundary review board has been created, any required review would be by that board; no other board would be created in the county.

<sup>2</sup> An ad hoc annexation review board is created in these counties which do not have boundary review boards; the ad hoc board reviews annexation requests involving first, second, third class cities and towns.

<sup>3</sup> A county annexation review board for code cities would only be created in those counties not having a boundary review board; the code city board would only consider annexation requests involving code cities.

<sup>4</sup> Review may be dispensed with if the proposed annexation is for an area of less than 10 acres and \$2 million assessed valuation, if the board chair declares in writing that review is not necessary.

<sup>5</sup> Review only required if request made by board members, affected government, or by petition of voters or property owners.

<sup>6</sup> Review is not required if proposed annexation is for area less than 50 acres, or less than \$2 million in assessed valuation.

<sup>7</sup> Review is not required if proposed annexation is for area less than 10 acres and less than \$800,000 in assessed valuation.

<sup>8</sup> Whether review is required is statutorily unclear. If review is sought, the board's decision would be advisory only.<sup>71</sup>

## ENDNOTES FOR CHAPTER 10

1 Additional information helpful to analyzing the consequences of an annexation on several of the major  
special districts is set out in the Annexation Handbook, Report No. 19, Municipal Resource Services.

2

3 RCW 35.13.280 and RCW 35A.14.900.

4 Id.; Metropolitan Services, Inc. v. Spokane, 32 Wn. App. 714, 649 P.2d 642 (1982).

5 RCW 82.14.060

6 Olson v. City of Bellevue, 93 Wn. App. 154, 968 P.2d 894 (1998).

7 See WAC 197-11-704.

8 RCW 35.13.177; see also RCW 35A.14.330.

9 RCW 35.13.090, RCW 35.13.095, and RCW 35.13.100

10 RCW 35.14.010.

11 See RCW 42.17.130.

12 Under the Growth Management Act (Ch. 17, Laws of 1990, 1st Ex. Sess., (ESHB 2929) (RCW 35.13.005) only those areas which are in an urban growth area may be annexed. The Act, however, does not apply in all areas of the state.

13 RCW 35.13.020 continues to refer to RCW 35.13.025, even though RCW 35.13.025 was repealed by section 10, Ch. 351, Laws of 1989. Chapter 351 would have significantly amended RCW 35.13.020; however, the section that would have made the amendments (section 1) was vetoed by the governor.

14 RCW 35.13.020, RCW 35.13.040.

15 RCW 35.13.020.

16 RCW 36.93.090.

17 RCW 35.13.171.

18 "The [county has] no alternative but to grant the petition if the board of review has approved the annexation and the petition complies with the statutes." Meek v. Thurston County, 60 Wn.2d 461, 467, 374 P.2d 558 (1962); Accord, AGO 57-58 No. 19.

19 At any time before the date is set for the annexation election, all proceedings to annex may be terminated if a sufficient petition is submitted pursuant to RCW 35.13.165. The ability to terminate the process by petition, however, is only available to cities with a population greater than 400,000.

20 RCW 35.13.090.

21 RCW 35.13.100.

22 RCW 35.13.110.

23 RCW 36.93.090.

24 RCW 35.13.171.

25 See RCW 28A.335.110.

26 See RCW 35.13.125.

27 RCW 35.13.125.

28 See RCW 35.13.130.

29 See RCW 35.13.140.

30 RCW 35.13.150.

31 RCW 36.93.090.

32 RCW 36.93.100.

33 RCW 35.13.160.

34 First class cities probably may also utilize this annexation method under the omnibus grant of powers to first class cities by RCW 35.22.570.

35 See RCW 36.93.090.

---

36 RCW 35.13.185.  
37 RCW 35.13.190.  
38 See Ch. 84, Laws of 1989 (SSB 5127) and RCW 35.13.300 et seq.  
39 RCW 35.13.300.  
40 Id.  
41 RCW 35.13.340.  
42 RCW 36.70A.110.  
43 RCW 35.13.005.  
44 Under the Growth Management Act (ch. 17, Laws of 1990, 1st Ex. Sess., (ESHB 2929) (RCW 35.13.005) only those areas which are in an "urban growth area" may be annexed. The Act, however, does not apply to all areas of the state.  
45 See RCW 35A.14.020.  
46 See RCW 35A.14.020.  
47 An area of less than ten acres and less than \$2 million in assessed valuation need not be reviewed by a county boundary review board, if the chair of the board by written statement declares that review is not necessary. See RCW 36.93.110.  
48 See RCW 35A.14.050.  
49 See *Moen v. Erlandson*, 80 Wn.2d 755, 498 P.2d 849 (1972).  
50 RCW 35A.14.080.  
51 RCW 35A.14.050.  
52 RCW 35A.14.700.  
53 RCW 35A.14.015.  
54 Prior to the passage of ch. 351, Laws of 1989, signatures representing 75 percent of the property value were required.  
55 RCW 35A.14.120.  
56 RCW 35A.14.120.  
57 RCW 35A.01.040(4).  
58 RCW 35A.14.140.  
59 RCW 35A.14.220.  
60 RCW 35A.14.150.  
61 RCW 35A.14.220 and RCW 36.93.090.  
62 RCW 35A.14.310.  
63 See RCW 35A.14.295 and 35A.14.297.  
64 RCW 35A.14.297.  
65 See RCW 35A.14.220.  
66 See RCW 35A.14.297 and 35A.14.299.  
67 See RCW 35A.14.297 and 35A.14.299.  
68 See Ch. 84, Laws of 1989 (SSB 5127) and RCW 35.13.300 et seq.  
69 See RCW 35.13.300 and 35.13.340.  
70 See RCW 36.93.010.  
71 See *State ex rel. Thigpen v. Kent*, 64 Wn.2d 823, 394 P.2d 686 (1964)